

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

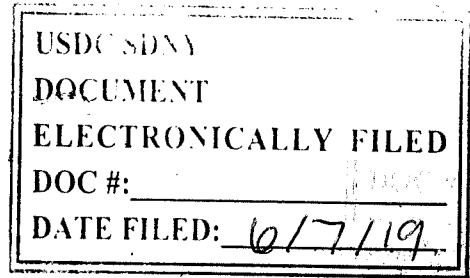
24 CAPITAL FUNDING, LLC,

Plaintiff,

-against-

PETERS,

Defendant.



No. 19-cv-4929 (NSR)
ORDER TO SHOW CAUSE

NELSON S. ROMÁN, United States District Judge

On May 10, 2019, Plaintiff 24 Capital Funding, LLC filed a judgment by confession against Defendants Peters Broadcasting Engineering, Inc., and Robert Michael Peters in the Supreme Court of New York for Putnam County. Peters Broadcast Engineering is an Indiana corporation and Robert Michael Peters, apparently domiciled in Indiana, is its sole shareholder. (ECF No. 2, at 1.) On May 28, 2019, Defendant Peters filed a notice of removal in this Court pursuant to 28 U.S.C. § 1441. The Court has preliminarily assessed this case and noted several issues with the Court exercising jurisdiction over it, including:

1. *It seemingly involves removal of multiple cases at once:* Defendants notice removes two cases, Index Nos. 500734/2019 and 500736/2019, in a single petition. (See ECF No. 2, at 3; see also ECF No. 2, at 21, 29). Hence, there is a jurisdictional question of whether it is proper to remove two state actions with a single notice of removal. See *Barrio v. A.C. & S., Inc.*, No. 14-CV-3717 (LAK), 2016 WL 5805585 at *1 (S.D.N.Y. Sept. 6, 2016) (noting that “it likely is improper to remove more than one case with a single notice of removal”).
2. *The action seemingly involves an insufficient amount in controversy:* If treated individually, Plaintiff’s May 10, 2019 judgment by confession is only seeking \$22,641.50, including attorney’s fees, and therefore does not meet the \$75,000 amount in controversy necessary for removal.¹ (See ECF No. 2, at 21.)

¹ Plaintiff is seeking a judgment of \$89,909.85 in its judgment of confession filed on May 13, 2019, (See ECF No. 2, at 29.)

3. *Insufficient Showing of Diversity jurisdiction*: Defendants allege that this Court has diversity jurisdiction on the grounds that Peters Broadcast Engineering is “an Indiana corporation” and that Plaintiff 24 Capital Funding, LLC’s “members are all citizens of states other than Indiana.” (ECF No. 2, at 1, 2.) However, Defendants provide no additional information about who Plaintiff’s members are or where they are domiciled. And while Defendant Peters includes a Fort Wayne, Indiana address in his signature block, he does not otherwise allege that he is domiciled in Indiana.
4. *Defendants Peters Broadcast Engineering’s pro se status*: Defendant Robert Michael Peters filed this Notice of Removal *pro se* on behalf of himself and on behalf of Peters Broadcast Engineering. However, corporations generally cannot proceed *pro se*. See generally *Rowland v. Cal. Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 201-03 (1993); *Lattanzio v. COMTA*, 481 F.3d 137, 139-40 (2d. Cir. 2007). While Peters refers to filing a motion for admission *pro hac vice*, see ECF No. 2, at 39, there is no such filing on the docket and there is no indication in his filings that he is a licensed attorney. In addition to raising issues about representation of the corporation going forward, there is also the question of whether, despite Peters’ assertions, the corporation can properly consent to removal without counsel.

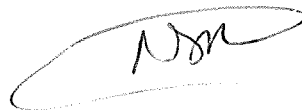
CONCLUSION

Accordingly, Defendant Peters is ordered to show cause for why this action should not be remanded back to state court in light of the many jurisdictional issues noted above. Defendant is directed to submit their response to the instant order to show cause no later than June 21, 2019. Failure to timely respond may result in the action being remanded back to state court. The Clerk of the Court is respectfully directed to mail a copy of this Order to Plaintiff at its last address listed on ECF, and to show proof of service on the docket.

Dated: June 07, 2019

White Plains, New York

SO ORDERED:



NELSON S. ROMÁN

United States District Judge